# Before the Federal Communications Commission Washington, D.C. 20554

| In the Matter of              | )                          |    |
|-------------------------------|----------------------------|----|
|                               | ) File No. EB-02-IH-0238   |    |
| MIDDLE GEORGIA                | ) NAL/Acct. No. 2004320800 | 01 |
| COMMUNICATIONS, INC.          | ) FRN # 0009931361         |    |
| ,                             | ) Facility ID # 41993      |    |
| Licensee of Station WMGZ(FM), | )                          |    |
| Eatonton, Georgia             | )                          |    |

### **ORDER**

Adopted: June 18, 2004 Released: June 21, 2004

By the Chief, Enforcement Bureau

- 1. In this Order, we adopt a Consent Decree terminating an investigation by the Enforcement Bureau (the "Bureau") into the possible violation by Middle Georgia Communications, Inc. ("Middle Georgia"), licensee of Station WMGZ(FM), Eatonton, Georgia, of Section 310(d) of the Communications Act of 1934, as amended, in connection with the possible unauthorized transfer of control of Station WKGQ(AM), Milledgeville, Georgia.
- 2. The Bureau and Middle Georgia have negotiated the terms of the Consent Decree, a copy of which is attached hereto and incorporated by reference herein. We have reviewed the terms of the Consent Decree and evaluated the facts before us. We believe that the public interest would be served by approving the Consent Decree and terminating the investigation. In the absence of material new evidence relating to this matter, we conclude that there are no substantial or material questions of fact as to whether Middle Georgia possesses the basic qualifications to be or remain a Commission licensee.
- 3. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,<sup>2</sup> and the authority delegated by Sections 0.111 and 0.311 of the Commission's Rules,<sup>3</sup> the attached Consent Decree IS ADOPTED.
  - 4. IT IS FURTHER ORDERED that the referenced investigation IS

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<sup>&</sup>lt;sup>1</sup> 47 U.S.C. § 310(d).

<sup>&</sup>lt;sup>2</sup> 47 U.S.C. §§ 154(i).

<sup>&</sup>lt;sup>3</sup> 47 C.F.R. §§ 0.111, 0.311.

## TERMINATED.

5. IT IS FURTHER ORDERED that copies of this Order shall be sent by regular first class mail and certified mail - return receipt requested, to Middle Georgia Communications, Inc., P.O. Box 832, Milledgeville, Georgia 31059-0832, and to its counsel, Lauren A. Colby, Esq., P.O. Box 113, Frederick, Maryland 21705-0113.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon Chief, Enforcement Bureau

## **CONSENT DECREE**

- 1. The Enforcement Bureau of the Federal Communications Commission, and Middle Georgia Communications, Inc., by their respective authorized representatives, hereby enter into this Consent Decree for the purpose of resolving and terminating the Enforcement Bureau's investigation into possible violations of Section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. 310(d), in connection with Middle Georgia Communications, Inc.'s possible unauthorized acquisition of control of Station WKGQ(AM), Milledgeville, Georgia, from the licensee of the station, Keystone Enterprises, Inc.
  - 2. For the purposes of this Consent Decree, the following definitions apply:
    - a) The "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §§ 151 et seq.;
    - b) "Adopting Order" or "Order" means an order of the Enforcement Bureau adopting this Consent Decree;
    - c) The "Bureau" means the Enforcement Bureau of the Federal Communications Commission;
    - d) The "Commission" or "FCC" means the Federal Communications Commission;
    - e) "Effective Date" means the date on which the Bureau releases the Adopting Order;
    - f) "Keystone Enterprises" means Keystone Enterprises, Inc., the licensee of Station WKGQ(AM), Milledgeville, Georgia, and its parent, subsidiaries, divisions and affiliates, and each of their respective officers, directors, employees, agents, representatives, or any other person acting or purporting to act on behalf of Keystone Enterprises, Inc. or their successors or assigns;
    - g) "Middle Georgia" means Middle Georgia Communications, Inc., the licensee of Station WMGZ(FM), Eatonton, Georgia, and its parent, subsidiaries, divisions and affiliates, and each of their respective officers, directors, employees, agents, representatives, or any other person acting or purporting to act on behalf of Middle Georgia Communications, Inc. or their successors or assigns;
    - h) "Parties" means Middle Georgia and the Bureau; and

i) "Rules" means the Commission's regulations set forth in Title 47 of the Code of Federal Regulations.

# I. Background

3. On June 13, 1995, Middle Georgia, the then-licensee of Station WKGQ(AM), Milledgeville, Georgia, filed an application seeking Commission consent to the proposed assignment of the license for Station WKGQ(AM) to Keystone Enterprises. The Commission granted the application on July 31, and the companies consummated the transaction on September 5, 1995. Keystone Enterprises, however, defaulted on its installment payments to Middle Georgia for the purchase of the station. Middle Georgia entered into a Local Management Agreement ("LMA") with Keystone Enterprises, dated January 26, 1996, pursuant to which Middle Georgia was to operate Station WKGQ(AM) station for 90 days. Keystone Enterprises abandoned the station, and Middle Georgia continued to operate the facility beyond the 90-day period covered by the LMA without any Commission authority to do so. The Enforcement Bureau commenced an investigation to determine whether Middle Georgia may have violated Section 310(d) of the Act.

#### II. Terms of Settlement

- 4. In accordance with the terms of this Consent Decree, the Parties agree to the following terms, conditions, and procedures.
- 5. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in an Adopting Order.
- 6. The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission and any violation of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.
- 7. Middle Georgia agrees that the Bureau has jurisdiction over the matters that are the subject of this Consent Decree and the authority to enter into and adopt this Consent Decree.
- 8. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding compliance or noncompliance with the requirements of the Act or the Commission's rules and orders. The Parties agree that this Consent Decree is for settlement purposes only and that, by entering into to this Consent Decree, Middle Georgia does not admit or deny liability for violating any statute, regulation, or rule in connection with the matters that are the subject of this Consent Decree.
  - 9. The Parties agree and acknowledge that this Consent Decree shall constitute

a final settlement between them concerning the Bureau's investigation of the matters discussed in paragraph 3, above.

- 10. In express reliance upon the covenants and representations in this Consent Decree, the Bureau agrees to terminate its investigation of Middle Georgia relating to the matters discussed in paragraph 3, above, without any finding of liability on the part of Middle Georgia.
- 11. In consideration of the Bureau's termination of its investigation into these matters, Middle Georgia agrees to the terms set forth herein.
- 12. Within five (5) business days of the release of the Adopting Order, Middle Georgia shall make a voluntary contribution to the United States Treasury, without protest or recourse, by wire or by mailing a check or similar instrument drawn to the order of the Federal Communications Commission, in the amount of Eight Thousand Dollars (\$8,000.00), to be sent to the attention of the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois, 60673-7482. The check, wire transfer or money order shall refer to Acct. No. 200432080140 and FRN # 0009931361. Any wire transfer must be made in accordance with Commission procedures for wire transfers.
- 13. Middle Georgia agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that Middle Georgia fails to satisfy any condition, in the absence of Commission alteration of the condition, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, revocation of the relief, designation of the matter for hearing, letters of admonishment, or forfeitures.
- 14. The Bureau agrees that, in the absence of material new evidence, it will not, on its own motion, initiate or recommend to the Commission, any new proceeding, formal or informal, regarding the matters discussed in paragraph 3, above. The Bureau further agrees that, in the absence of material new evidence, it will not use the facts developed in this investigative proceeding through the Effective Date to initiate on its own motion, or recommend to the Commission, any proceeding, formal or informal, or take any action on its own motion against Middle Georgia with respect to its basic qualifications to be or remain a Commission licensee. Nothing in this Consent Decree shall prevent the Bureau from instituting, or recommending to the Commission, new investigations or enforcement proceedings against Middle Georgia, in the event of any alleged future misconduct for violation of this Consent Decree or for violation of the Act or the Commission's Rules, consistent with the provisions of this Consent Decree.
- 15. Middle Georgia waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Adopting Order adopts the Consent Decree without change, addition or modification.
  - 16. Middle Georgia agrees to waive any claims it may otherwise have under the

Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

- 17. If any Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Adopting Order, Middle Georgia and the FCC shall not contest the continuing validity of the Consent Decree or Adopting Order.
- 18. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.
  - 19. This Consent Decree may be signed in counterparts.

| For the Enforcement Bureau              |      |
|---|------|
|   |      |
| David H. Solomon                        | Date |
| Chief, Enforcement Bureau               |      |
|   |      |
| For Middle Georgia Communications, Inc. |      |
|   |      |
| Thomas Ptak                             | Date |
| President                               |      |